

STATE OF INDIANA) IN THE MARION COUNTY SUPERIOR COURT
) SS:
COUNTY OF MARION) CAUSE NO. 49D05 09 05 PL 0240235

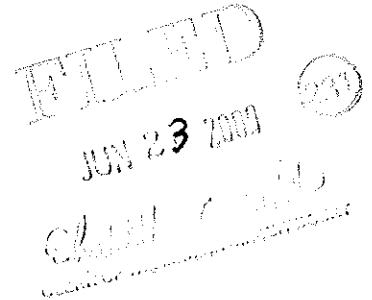
STATE OF INDIANA,

 Plaintiff,

v.

INTERNATIONAL CORPORATE MARKETING,
INC.; PAPILLON GLOBAL MARKETING, LLC;
AARON VINCENT WILLIAMS, individually; and
LISA DIANE BROWN, a/k/a LISA D. NEWBERRY,
individually; all at various time doing business as
INDIANA CORPORATE COMPLIANCE, and/or
ANNUAL CORPORATE COMPLIANCE,

 Defendants.



**FINDING OF FACTS, CONCLUSIONS OF LAW AND ORDER GRANTING
INJUNCTION**

This matter comes before the Court on the Plaintiff's *Complaint for Injunction, Restitution, Costs, Civil Penalties, and other Equitable Relief* filed on May 21, 2009. Plaintiff, State of Indiana ("State") also filed therewith its *Motion for Preliminary Injunction*. A hearing on the Plaintiff's *Motion for Preliminary Injunction* was held in this matter on June 12, 2009 at 9:00am ("Hearing"). Plaintiff, the State of Indiana, appeared by counsel Deputy Attorney General Jeremy R. Comeau, and Graduate Legal Intern Adam D. Dolce. All corporate and individual Defendants appeared by counsel, P. Adam Davis of Davis & Sarbinoff, LLP.

Findings of Fact and Conclusions of Law

1. The Court ordered consolidation of the Hearing with a trial on the merits of the action pursuant to Indiana Trial Rule 65(2).

2. From the evidence presented at the Hearing, the Court finds that the Defendants transmitted solicitations to various businesses in Indiana in the form or substantially similar to the form of Plaintiff's admitted Exhibit 1 and 2.

3. The Indiana businesses who received those solicitations are persons as defined by Ind. Code §24-5-19-2.

4. The solicitations knowingly or intentionally transmitted by the Defendants could reasonably be interpreted to be compliance notices, legal notices, or other notices of a governmental entity to solicit payment of money for services not yet performed and not yet ordered, in violation of Ind. Code §24-19-5-4. Upon receiving the notices, persons were, in fact, misled. They believed the compliance notices were generated by a government agency. There were discrepancies as to what statutory requirement the compliance notices referenced, since the only periodic filing requirement is the annual report. However, the compliance notices are so misleading that the recipients were afraid not to comply with the request for payment. The Court finds that the confusion and the concerns about failure to comply with the notices were reasonable.

5. The State has met the burden for the issuance of a Preliminary Injunction. This Court must consider four factors when evaluating a preliminary injunction request: (1) the absence of an adequate remedy at law, so that the failure to grant the requested relief will cause irreparable harm if preliminary relief is denied; (2) a reasonable likelihood of success on the merits by demonstrating a *prima facie* case; (3) the

threatened injury to the plaintiff outweighs the harm that the grant of an injunction may inflict on the Defendant; and (4) the grant of a preliminary injunction must not disserve the public interest. *Reilly v. Daly*, 666 N.E.2d 439, 443 (Ind. App. 1996), *trans. denied*.

6. The State has shown that irreparable harm will result if the injunction is not granted. Where the action sought to be enjoined is unlawful, the unlawful act constitutes *per se* "irreparable harm" for purposes of the preliminary injunction analysis. "When the acts sought to be enjoined are unlawful, the plaintiff need not make a showing of irreparable harm or a balance of hardships in its favor." *L.E. Services v. State Lottery Commission*, 646 N.E.2d 334, 349 9Ind. Ct. App. 1995); *see also*, *Common Council of City of Peru v. Peru Daily*, 440 N.E.2d 726, 733 (Ind. Ct. App. 1982); *City of Gary v. Stream pollution Control Bd.*, Ind. App., 422 N.E.2d 312 (1981); *Union Ins. Co. v. State ex rel. Indiana Dept. of Ins.* 401 N.E.2d 1372 (Ind.App., 1980).

7. The State has shown a reasonable likelihood of success on the merits based upon the evidence presented during the Hearing.

8. The Defendants actions are in violation of Ind. Code §24-5-19-4 and therefore constitute *per se* irreparable harm, obviating the need for the State to engage in a balance of the harms between the Plaintiff and Defendants. *L.E. Services*, 646 N.E.2d at 349.

9. The State shall not be required to post security to obtain this Order because this action is being brought by a governmental organization.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the request for a Permanent Injunction is **GRANTED**. Defendants are hereby restrained and enjoined from this time forward from knowingly or intentionally sending, delivering, or

transmitting a writing that purports to be a compliance notice, legal notice, or other notice of a governmental entity, or a writing that could reasonably be interpreted to be a compliance notice, legal notice, or other notice of a governmental entity, to solicit payment of money by another person for goods not yet ordered or for services not yet performed and not yet ordered in violation of Indiana Code §24-5-19-4.

IT IS FURTHER ORDERED that this Order shall be in effect until further Order of this Court. The Court will schedule a hearing on damages at the request of either party.

Dated: June 23, 2009



Judge, Marion County Superior Court 5

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